

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 519

Introduced by Assembly Member Leno

February 16, 2005

An act to amend ~~Section~~ *Sections 213.5 and 366.26* of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as amended, Leno. Parental rights.

Existing law provides that children may become dependent children of the juvenile court on the basis of abuse or neglect. Existing law specifies that any order of the court permanently terminating parental rights is conclusive and binding on the child, subject to specified notice provisions, and gives the juvenile court no power to set aside, change, or modify that order, except that the order may be appealed.

This bill would create an exception to this provision to permit a dependent child who has not been adopted after the passage of at least 3 years from termination of parental rights or is no longer adoptable, as specified, to petition the juvenile court for reinstatement of parental rights, pursuant to specified procedures.

Existing law permits the juvenile court to issue specified ex parte orders to protect a dependent child and also permits the court to issue specified ex parte orders to protect the parent, legal guardian, or current caretaker of a dependent child.

This bill would make technical changes to that latter provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 213.5 of the Welfare and Institutions*
2 *Code is amended to read:*

3 213.5. (a) After a petition has been filed pursuant to Section
4 311 to declare a child a dependent child of the juvenile court, and
5 until the time that the petition is dismissed or dependency is
6 terminated, upon application in the manner provided by Section
7 527 of the Code of Civil Procedure, the juvenile court may issue
8 ex parte orders (1) enjoining any person from molesting,
9 attacking, striking, sexually assaulting, stalking, or battering the
10 child or any other child in the household; (2) excluding any
11 person from the dwelling of the person who has care, custody,
12 and control of the child; and (3) enjoining any person from
13 behavior, including contacting, threatening, or disturbing the
14 peace of the child, that the court determines is necessary to
15 effectuate orders under paragraph (1) or (2). A court ~~issuing may~~
16 ~~also issue an ex parte order pursuant to this subdivision may~~
17 ~~simultaneously issue an ex parte order~~ enjoining any person from
18 contacting, threatening, molesting, attacking, striking, sexually
19 assaulting, stalking, battering, or disturbing the peace of any
20 parent, legal guardian, or current caretaker of the child,
21 regardless of whether the child resides with that parent, legal
22 guardian, or current caretaker, upon application in the manner
23 provided by Section 527 of the Code of Civil Procedure.

24 (b) After a petition has been filed pursuant to Section 601 or
25 602 to declare a child a ward of the juvenile court, and until the
26 time that the petition is dismissed or wardship is terminated,
27 upon application in the manner provided by Section 527 of the
28 Code of Civil Procedure, the juvenile court may issue ex parte
29 orders (1) enjoining any person from molesting, attacking,
30 threatening, sexually assaulting, stalking, or battering the child or
31 any other child in the household; (2) excluding any person from
32 the dwelling of the person who has care, custody, and control of
33 the child; or (3) enjoining the child from contacting, threatening,
34 stalking, or disturbing the peace of any person the court finds to
35 be at risk from the conduct of the child, or with whom
36 association would be detrimental to the child.

37 (c) In the case in which a temporary restraining order is
38 granted without notice, the matter shall be made returnable on an

1 order requiring cause to be shown why the order should not be
2 granted, on the earliest day that the business of the court will
3 permit, but not later than 15 days or, if good cause appears to the
4 court, 20 days from the date the temporary restraining order is
5 granted. The court may, on the motion of the person seeking the
6 restraining order, or on its own motion, shorten the time for
7 service on the person to be restrained of the order to show cause.
8 The court may, upon its own motion or the filing of an affidavit
9 by the person seeking the restraining order, find that the person
10 to be restrained could not be served within the time required by
11 law and to reissue an order previously issued and dissolved by
12 the court for failure to serve the person to be restrained. The
13 reissued order shall state on its face the date of expiration of the
14 order. Any hearing pursuant to this section may be held
15 simultaneously with any regularly scheduled hearings held in
16 proceedings to declare a child a dependent child or ward of the
17 juvenile court pursuant to Section 300, 601, or 602, or
18 subsequent hearings regarding the dependent child or ward.

19 (d) The juvenile court may issue, upon notice and a hearing,
20 any of the orders set forth in subdivisions (a), (b), and (c). Any
21 restraining order granted pursuant to this subdivision shall
22 remain in effect, in the discretion of the court, not to exceed three
23 years, unless otherwise terminated by the court, extended by
24 mutual consent of all parties to the restraining order, or extended
25 by further order of the court on the motion of any party to the
26 restraining order.

27 (e) (1) The juvenile court may issue an order made pursuant
28 to subdivision (a), (c), or (d) excluding a person from a residence
29 or dwelling. This order may be issued for the time and on the
30 conditions that the court determines, regardless of which party
31 holds legal or equitable title or is the lessee of the residence or
32 dwelling.

33 (2) The court may issue an order under paragraph (1) only on
34 a showing of all of the following:

35 (A) Facts sufficient for the court to ascertain that the party
36 who will stay in the dwelling has a right under color of law to
37 possession of the premises.

38 (B) That the party to be excluded has assaulted or threatens to
39 assault the other party or any other person under the care,

1 custody, and control of the other party, or any minor child of the
2 parties or of the other party.

3 (C) That physical or emotional harm would otherwise result to
4 the other party, to any person under the care, custody, and control
5 of the other party, or to any minor child of the parties or of the
6 other party.

7 (f) Any order issued pursuant to subdivision (a), (b), (c), or (d)
8 shall state on its face the date of expiration of the order.

9 (g) The juvenile court shall order any designated person or
10 attorney to mail a copy of any order, or extension, modification,
11 or termination thereof, granted pursuant to subdivision (a), (b),
12 (c), or (d), by the close of the business day on which the order,
13 extension, modification, or termination was granted, and any
14 subsequent proof of service thereof, to each local law
15 enforcement agency designated by the person seeking the
16 restraining order or his or her attorney having jurisdiction over
17 the residence of the person who has care, custody, and control of
18 the child and other locations where the court determines that acts
19 of domestic violence or abuse against the child or children are
20 likely to occur. Each appropriate law enforcement agency shall
21 make available through an existing system for verification,
22 information as to the existence, terms, and current status of any
23 order issued pursuant to subdivision (a), (b), (c), or (d) to any law
24 enforcement officer responding to the scene of reported domestic
25 violence or abuse.

26 (h) Any willful and knowing violation of any order granted
27 pursuant to subdivision (a), (b), (c), or (d) shall be a
28 misdemeanor punishable under Section 273.65 of the Penal
29 Code.

30 (i) A juvenile court restraining order related to domestic
31 violence issued by a court pursuant to this section shall be issued
32 on forms adopted by the Judicial Council of California and that
33 have been approved by the Department of Justice pursuant to
34 subdivision (i) of Section 6380 of the Family Code. However, the
35 fact that an order issued by a court pursuant to this section was
36 not issued on forms adopted by the Judicial Council and
37 approved by the Department of Justice shall not, in and of itself,
38 make the order unenforceable.

39 (j) Information on any juvenile court restraining order related
40 to domestic violence issued by a court pursuant to this section

1 shall be transmitted to the Department of Justice in accordance
2 with subdivision (b) of Section 6380 of the Family Code.

3 (k) (1) Prior to a hearing on the issuance or denial of an order
4 under this part, a search shall be conducted as described in
5 subdivision (a) of Section 6306 of the Family Code.

6 (2) Prior to deciding whether to issue an order under this part,
7 the court shall consider the following information obtained
8 pursuant to a search conducted under paragraph (1): any
9 conviction for a violent felony specified in Section 667.5 of the
10 Penal Code or a serious felony specified in Section 1192.7 of the
11 Penal Code; any misdemeanor conviction involving domestic
12 violence, weapons, or other violence; any outstanding warrant;
13 parole or probation status; any prior restraining order; and any
14 violation of a prior restraining order.

15 (3) (A) If the results of the search conducted pursuant to
16 paragraph (1) indicate that an outstanding warrant exists against
17 the subject of the search, the court shall order the clerk of the
18 court to immediately notify, by the most effective means
19 available, appropriate law enforcement officials of any
20 information obtained through the search that the court determines
21 is appropriate. The law enforcement officials so notified shall
22 take all actions necessary to execute any outstanding warrants or
23 any other actions, as appropriate and as soon as practicable.

24 (B) If the results of the search conducted pursuant to
25 paragraph (1) indicate that the subject of the search is currently
26 on parole or probation, the court shall order the clerk of the court
27 to immediately notify, by the most effective means available, the
28 appropriate parole or probation officer of any information
29 obtained through the search that the court determines is
30 appropriate. The parole or probation officer so notified shall take
31 all actions necessary to revoke any parole or probation, or any
32 other actions, with respect to the subject person, as appropriate
33 and as soon as practicable.

34 (I) Upon making any order for custody or visitation pursuant
35 to this section, the court shall follow the procedures specified in
36 subdivisions (c) and (d) of Section 6323 of the Family Code.

37 ~~SECTION 1.~~

38 *SEC. 2.* Section 366.26 of the Welfare and Institutions Code
39 is amended to read:

1 366.26. (a) This section applies to children who are adjudged
2 dependent children of the juvenile court pursuant to subdivision
3 (c) of Section 360. The procedures specified herein are the
4 exclusive procedures for conducting these hearings; Part 2
5 (commencing with Section 3020) of Division 8 of the Family
6 Code is not applicable to these proceedings. Section 8714.7 of
7 the Family Code is applicable and available to all dependent
8 children meeting the requirements of that section, if the
9 postadoption contact agreement has been entered into
10 voluntarily. For children who are adjudged dependent children of
11 the juvenile court pursuant to subdivision (c) of Section 360, this
12 section and Sections 8604, 8605, 8606, and 8700 of the Family
13 Code and Chapter 5 (commencing with Section 7660) of Part 3
14 of Division 12 of the Family Code specify the exclusive
15 procedures for permanently terminating parental rights with
16 regard to, or establishing legal guardianship of, the child while
17 the child is a dependent child of the juvenile court.

18 (b) At the hearing, that shall be held in juvenile court for all
19 children who are dependents of the juvenile court, the court, in
20 order to provide stable, permanent homes for these children, shall
21 review the report as specified in Section 361.5, 366.21, or
22 366.22, shall indicate that the court has read and considered it,
23 shall receive other evidence that the parties may present, and then
24 shall make findings and orders in the following order of
25 preference:

26 (1) Terminate the rights of the parent or parents and order that
27 the child be placed for adoption and, upon the filing of a petition
28 for adoption in the juvenile court, order that a hearing be set. The
29 court shall proceed with the adoption after the appellate rights of
30 the natural parents have been exhausted.

31 (2) On making a finding under paragraph (3) of subdivision
32 (c), identify adoption as the permanent placement goal and order
33 that efforts be made to locate an appropriate adoptive family for
34 the child within a period not to exceed 180 days.

35 (3) Appoint a legal guardian for the child and order that letters
36 of guardianship issue.

37 (4) Order that the child be placed in long-term foster care,
38 subject to the periodic review of the juvenile court under Section
39 366.3.

1 In choosing among the above alternatives the court shall
2 proceed pursuant to subdivision (c).

3 (c) (1) If the court determines, based on the assessment
4 provided as ordered under subdivision (i) of Section 366.21 or
5 subdivision (b) of Section 366.22, and any other relevant
6 evidence, by a clear and convincing standard, that it is likely the
7 child will be adopted, the court shall terminate parental rights and
8 order the child placed for adoption. The fact that the child is not
9 yet placed in a preadoptive home nor with a relative or foster
10 family who is prepared to adopt the child, shall not constitute a
11 basis for the court to conclude that it is not likely the child will
12 be adopted. A finding under subdivision (b) or paragraph (1) of
13 subdivision (e) of Section 361.5 that reunification services shall
14 not be offered, under subdivision (e) of Section 366.21 that the
15 whereabouts of a parent have been unknown for six months or
16 that the parent has failed to visit or contact the child for six
17 months or that the parent has been convicted of a felony
18 indicating parental unfitness, or, under Section 366.21 or 366.22,
19 that the court has continued to remove the child from the custody
20 of the parent or guardian and has terminated reunification
21 services, shall constitute a sufficient basis for termination of
22 parental rights unless the court finds a compelling reason for
23 determining that termination would be detrimental to the child
24 due to one or more of the following circumstances:

25 (A) The parents or guardians have maintained regular
26 visitation and contact with the child and the child would benefit
27 from continuing the relationship.

28 (B) A child 12 years of age or older objects to termination of
29 parental rights.

30 (C) The child is placed in a residential treatment facility,
31 adoption is unlikely or undesirable, and continuation of parental
32 rights will not prevent finding the child a permanent family
33 placement if the parents cannot resume custody when residential
34 care is no longer needed.

35 (D) The child is living with a relative or foster parent who is
36 unable or unwilling to adopt the child because of exceptional
37 circumstances, that do not include an unwillingness to accept
38 legal or financial responsibility for the child, but who is willing
39 and capable of providing the child with a stable and permanent
40 environment and the removal of the child from the physical

1 custody of his or her relative or foster parent would be
2 detrimental to the emotional well-being of the child. This
3 subparagraph does not apply to any child who is living with a
4 nonrelative and who is either (i) under six years of age or (ii) a
5 member of a sibling group where at least one child is under six
6 years of age and the siblings are, or should be, permanently
7 placed together.

8 (E) There would be substantial interference with a child's
9 sibling relationship, taking into consideration the nature and
10 extent of the relationship, including, but not limited to, whether
11 the child was raised with a sibling in the same home, whether the
12 child shared significant common experiences or has existing
13 close and strong bonds with a sibling, and whether ongoing
14 contact is in the child's best interest, including the child's
15 long-term emotional interest, as compared to the benefit of legal
16 permanence through adoption.

17 If the court finds that termination of parental rights would be
18 detrimental to the child pursuant to subparagraph (A), (B), (C),
19 (D), or (E), it shall state its reasons in writing or on the record.

20 (2) The court shall not terminate parental rights if at each and
21 every hearing at which the court was required to consider
22 reasonable efforts or services, the court has found that reasonable
23 efforts were not made or that reasonable services were not
24 offered or provided.

25 (3) If the court finds that termination of parental rights would
26 not be detrimental to the child pursuant to paragraph (1) and that
27 the child has a probability for adoption but is difficult to place for
28 adoption and there is no identified or available prospective
29 adoptive parent, the court may identify adoption as the
30 permanent placement goal and without terminating parental
31 rights, order that efforts be made to locate an appropriate
32 adoptive family for the child within a period not to exceed 180
33 days. During this 180-day period, the public agency responsible
34 for seeking adoptive parents for each child shall, to the extent
35 possible, ask each child who is 10 years of age or older who is
36 placed in a group home for six months or longer from the date
37 the child entered foster care, to identify any individuals, other
38 than the child's siblings, who are important to the child, in order
39 to identify potential adoptive parents. The public agency may ask
40 any other child to provide that information, as appropriate.

During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1) or (3) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is the age of seven years or more.

(4) (A) If the court finds that adoption of the child or termination of parental rights is not in the best interest of the child, because one of the conditions in subparagraph (A), (B), (C), (D), or (E) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the child or order that the child remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. A child who is 10 years of age or older who is placed in a group home for six months or longer from the date the child entered foster care, shall be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential guardians. The agency may ask any other child to provide that information, as appropriate.

(B) If the child is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker or foster parents.

(C) The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child.

1 (5) If the court finds that the child should not be placed for
2 adoption, that legal guardianship shall not be established, and
3 that there are no suitable foster parents except exclusive-use
4 homes available to provide the child with a stable and permanent
5 environment, the court may order the care, custody, and control
6 of the child transferred from the county welfare department to a
7 licensed foster family agency. The court shall consider the
8 written recommendation of the county welfare director regarding
9 the suitability of the transfer. The transfer shall be subject to
10 further court orders.

11 The licensed foster family agency shall place the child in a
12 suitable licensed or exclusive-use home that has been certified by
13 the agency as meeting licensing standards. The licensed foster
14 family agency shall be responsible for supporting the child and
15 providing appropriate services to the child, including those
16 services ordered by the court. Responsibility for the support of
17 the child shall not, in and of itself, create liability on the part of
18 the foster family agency to third persons injured by the child.
19 Those children whose care, custody, and control are transferred
20 to a foster family agency shall not be eligible for foster care
21 maintenance payments or child welfare services, except for
22 emergency response services pursuant to Section 16504.

23 (d) The proceeding for the appointment of a guardian for a
24 child who is a dependent of the juvenile court shall be in the
25 juvenile court. If the court finds pursuant to this section that legal
26 guardianship is the appropriate permanent plan, it shall appoint
27 the legal guardian and issue letters of guardianship. The
28 assessment prepared pursuant to subdivision (g) of Section 361.5,
29 subdivision (i) of Section 366.21, and subdivision (b) of Section
30 366.22 shall be read and considered by the court prior to the
31 appointment, and this shall be reflected in the minutes of the
32 court. The person preparing the assessment may be called and
33 examined by any party to the proceeding.

34 (e) The proceeding for the adoption of a child who is a
35 dependent of the juvenile court shall be in the juvenile court if
36 the court finds pursuant to this section that adoption is the
37 appropriate permanent plan and the petition for adoption is filed
38 in the juvenile court. Upon the filing of a petition for adoption,
39 the juvenile court shall order that an adoption hearing be set. The
40 court shall proceed with the adoption after the appellate rights of

1 the natural parents have been exhausted. The full report required
2 by Section 8715 of the Family Code shall be read and considered
3 by the court prior to the adoption and this shall be reflected in the
4 minutes of the court. The person preparing the report may be
5 called and examined by any party to the proceeding. It is the
6 intent of the Legislature, pursuant to this subdivision, to give
7 potential adoptive parents the option of filing in the juvenile
8 court the petition for the adoption of a child who is a dependent
9 of the juvenile court. Nothing in this section is intended to
10 prevent the filing of a petition for adoption in any other court as
11 permitted by law, instead of in the juvenile court.

12 (f) At the beginning of any proceeding pursuant to this section,
13 if the child or the parents are not being represented by previously
14 retained or appointed counsel, the court shall proceed as follows:

15 (1) In accordance with subdivision (c) of Section 317, if a
16 child before the court is without counsel, the court shall appoint
17 counsel unless the court finds that the child would not benefit
18 from the appointment of counsel. The court shall state on the
19 record its reasons for that finding.

20 (2) If a parent appears without counsel and is unable to afford
21 counsel, the court shall appoint counsel for the parent, unless this
22 representation is knowingly and intelligently waived. The same
23 counsel shall not be appointed to represent both the child and his
24 or her parent. The public defender or private counsel may be
25 appointed as counsel for the parent.

26 (3) Private counsel appointed under this section shall receive a
27 reasonable sum for compensation and expenses, the amount of
28 which shall be determined by the court. The amount shall be paid
29 by the real parties in interest, other than the child, in any
30 proportions the court deems just. However, if the court finds that
31 any of the real parties in interest are unable to afford counsel, the
32 amount shall be paid out of the general fund of the county.

33 (g) The court may continue the proceeding for not to exceed
34 30 days as necessary to appoint counsel, and to enable counsel to
35 become acquainted with the case.

36 (h) (1) At all proceedings under this section, the court shall
37 consider the wishes of the child and shall act in the best interests
38 of the child.

39 (2) In accordance with Section 349, the child shall be present
40 in court if the child or the child's counsel so requests or the court

1 so orders. If the child is 10 years of age or older and is not
2 present at a hearing held pursuant to this section, the court shall
3 determine whether the minor was properly notified of his or her
4 right to attend the hearing and inquire as to the reason why the
5 child is not present.

6 (3) (A) The testimony of the child may be taken in chambers
7 and outside the presence of the child's parent or parents, if the
8 child's parent or parents are represented by counsel, the counsel
9 is present, and any of the following circumstances exist:

10 (i) The court determines that testimony in chambers is
11 necessary to ensure truthful testimony.

12 (ii) The child is likely to be intimidated by a formal courtroom
13 setting.

14 (iii) The child is afraid to testify in front of his or her parent or
15 parents.

16 (B) After testimony in chambers, the parent or parents of the
17 child may elect to have the court reporter read back the testimony
18 or have the testimony summarized by counsel for the parent or
19 parents.

20 (C) The testimony of a child also may be taken in chambers
21 and outside the presence of the guardian or guardians of a child
22 under the circumstances specified in this subdivision.

23 (i) (1) Any order of the court permanently terminating
24 parental rights under this section shall be conclusive and binding
25 upon the child, upon the parent or parents and upon all other
26 persons who have been served with citation by publication or
27 otherwise as provided in this chapter. After making the order, the
28 juvenile court shall have no power to set aside, change, or modify
29 it, except as provided in paragraph (2), but nothing in this section
30 shall be construed to limit the right to appeal the order.

31 (2) A dependent child who has not been adopted after the
32 passage of at least three years from the date the court terminated
33 parental rights may petition the juvenile court to reinstate
34 parental rights pursuant to the procedure prescribed by Section
35 388. The child may file the petition prior to the expiration of this
36 three-year period if all parties stipulate that the child is no longer
37 adoptable. If it appears that the best interests of the child may be
38 promoted by reinstatement of parental rights, the court shall
39 order that a hearing be held and shall give prior notice, or cause
40 prior notice to be given, to the social worker or probation officer

1 and to the child's attorney of record, or, if there is no attorney of
2 record for the child, to the child and to his or her former parent or
3 parents whose parental rights were terminated and the child's
4 tribe, if applicable, by means prescribed by Section 388 unless a
5 different manner is prescribed by the court. The juvenile court
6 shall grant the petition if it finds by a preponderance of the
7 evidence that the child is no longer likely to be adopted and that
8 reinstatement of parental rights is in the child's best interest.

9 (j) If the court, by order or judgment, declares the child free
10 from the custody and control of both parents, or one parent if the
11 other does not have custody and control, the court shall at the
12 same time order the child referred to the State Department of
13 Social Services or a licensed adoption agency for adoptive
14 placement by the agency. However, a petition for adoption may
15 not be granted until the appellate rights of the natural parents
16 have been exhausted. The State Department of Social Services or
17 licensed adoption agency shall be responsible for the custody and
18 supervision of the child and shall be entitled to the exclusive care
19 and control of the child at all times until a petition for adoption is
20 granted. With the consent of the agency, the court may appoint a
21 guardian of the child, who shall serve until the child is adopted.

22 (k) Notwithstanding any other provision of law, the
23 application of any person who, as a relative caretaker or foster
24 parent, has cared for a dependent child for whom the court has
25 approved a permanent plan for adoption, or who has been freed
26 for adoption, shall be given preference with respect to that child
27 over all other applications for adoptive placement if the agency
28 making the placement determines that the child has substantial
29 emotional ties to the relative caretaker or foster parent and
30 removal from the relative caretaker or foster parent would be
31 seriously detrimental to the child's emotional well-being.

32 As used in this subdivision, "preference" means that the
33 application shall be processed and, if satisfactory, the family
34 study shall be completed before the processing of the application
35 of any other person for the adoptive placement of the child.

36 (l) (1) An order by the court that a hearing pursuant to this
37 section be held is not appealable at any time unless all of the
38 following applies:

39 (A) A petition for extraordinary writ review was filed in a
40 timely manner.

1 (B) The petition substantively addressed the specific issues to
2 be challenged and supported that challenge by an adequate
3 record.

4 (C) The petition for extraordinary writ review was summarily
5 denied or otherwise not decided on the merits.

6 (2) Failure to file a petition for extraordinary writ review
7 within the period specified by rule, to substantively address the
8 specific issues challenged, or to support that challenge by an
9 adequate record shall preclude subsequent review by appeal of
10 the findings and orders made pursuant to this section.

11 (3) The Judicial Council shall adopt rules of court, effective
12 January 1, 1995, to ensure all of the following:

13 (A) A trial court, after issuance of an order directing a hearing
14 pursuant to this section be held, shall advise all parties of the
15 requirement of filing a petition for extraordinary writ review as
16 set forth in this subdivision in order to preserve any right to
17 appeal in these issues. This notice shall be made orally to a party
18 if the party is present at the time of the making of the order or by
19 first-class mail by the clerk of the court to the last known address
20 of a party not present at the time of the making of the order.

21 (B) The prompt transmittal of the records from the trial court
22 to the appellate court.

23 (C) That adequate time requirements for counsel and court
24 personnel exist to implement the objective of this subdivision.

25 (D) That the parent or guardian, or their trial counsel or other
26 counsel, is charged with the responsibility of filing a petition for
27 extraordinary writ relief pursuant to this subdivision.

28 (4) The intent of this subdivision is to do both of the
29 following:

30 (A) Make every reasonable attempt to achieve a substantive
31 and meritorious review by the appellate court within the time
32 specified in Sections 366.21 and 366.22 for holding a hearing
33 pursuant to this section.

34 (B) Encourage the appellate court to determine all writ
35 petitions filed pursuant to this subdivision on their merits.

36 (5) This subdivision shall only apply to cases in which an
37 order to set a hearing pursuant to this section is issued on or after
38 January 1, 1995.

39 (m) Except for subdivision (j), this section shall also apply to
40 minors adjudged wards pursuant to Section 727.31.

O